

1 would barely register.

2 Q Sure.

3 A My recollection is sort of vague on that.  
4 I don't remember seeing any.

5 Q Do you recall seeing any members of the  
6 cleaning crew?

7 A I don't recall that either. Again, that  
8 would be one of those things that probably wouldn't  
9 register because they're so commonplace.

10 Q Sure. Do you know Bailiff Sylvia Gay?

11 A I probably have seen her a hundred times,  
12 and I doubt I could identify her in a line-up. You  
13 know, put five bailiffs up there and I wouldn't know  
14 which one was Sylvia Gay.

15 Q I understand. I understand.

16 A I'm terrible with names. I just say  
17 hello to everybody.

18 Q Subsequent to what you just testified to,  
19 and it probably was the following week, but correct me  
20 if I'm wrong, you did have some conversation with Judge  
21 Bonanno?

22 A I did. The next Tuesday, and probably it  
23 may have been the same day that the first article was  
24 in the paper. If not, it was certainly pretty close to  
25 it. I had a hearing before him on the uniform motion

1 calendar.

2 I was -- I think I was unopposed. At any  
3 rate, it was a fairly minor thing. And it was before  
4 him. And, of course, I had read the article so I knew  
5 what the allegations were. And I went in and we had  
6 the hearing.

7 And as I'm getting ready to leave, he  
8 asks me, "Do you remember seeing me the other  
9 afternoon?" And that brought on a conversation, a  
10 brief conversation about, "Well, of course, and I had  
11 seen the article in the paper, and I do remember seeing  
12 you and so forth."

13 And what I remember is his saying that,  
14 "Well, if anything comes of the allegations you may be  
15 called upon to testify." I told him, well, I would  
16 certainly be happy to testify to what I know.

17 And he said he was delivering statistics.  
18 And he, of course, downplayed the incident, said it  
19 was, he didn't use the term tempest in a teapot, but  
20 that's basically the gist of what he was saying. That  
21 it, you know, I mean, he just was down at the other end  
22 of the hall delivering statistics.

23 Q His justification for visiting either the  
24 different judges or visiting their offices was to  
25 deliver statistics?

1 A Uh-huh.

2 Q Do you know what his function is or was  
3 at that point in time?

4 A No.

5 Q Chief Judge of a division?

6 A I don't. He may have been assigned to  
7 the Trial Division, which is the one that will take  
8 cases that are longer than the average case so there is  
9 a six- or eight-day trial period.

10 Q Did you draw a conclusion as to what  
11 statistics he was talking about?

12 A Oh, he said something about case,  
13 caseload statistics or case statistics. It didn't --  
14 you know, if it was more specific than that I didn't  
15 really want to know, frankly, and it didn't matter to  
16 me.

17 Q But on the Tuesday after this incident,  
18 which occurred on a Thursday; is that right?

19 A Yes.

20 Q Okay. His comment to you some five days  
21 later was that, "Do you remember it? It may be  
22 necessary to remember it. I was delivering  
23 statistics"?

24 A Yes.

25 Q Did he mention any other reason that he

1 might be going from door to door or judge to judge?

2 A Not to me.

3 Q Now, you've been incredibly helpful, and  
4 there's two things I want to do. One is to make sure  
5 that you don't leave here saying, "Gosh, I wish they  
6 had asked me or I should have said." Anything that's  
7 on your mind I want you to tell this Grand Jury.

8 A Okay.

9 Q And then I want to give them a chance to  
10 ask you anything that's on their mind.

11 A Okay.

12 Q Can you think of anything?

13 A Yes. Because obviously I've replayed  
14 this a hundred times. And, of course, I've practiced  
15 in this courthouse for years and years and I know  
16 virtually everybody and have a good deal of respect.

17 And right now the fact that the  
18 Hillsborough judiciary is in a time of crisis is a  
19 concern to every lawyer who practices before these  
20 judges, and certainly to the reputation of the  
21 judiciary and to the profession.

22 So I knew all about the background of  
23 these things. And I knew there was bad blood between  
24 some of the judges and a lot of political rivalries.  
25 And I would have, frankly, rather have been almost

1 anywhere than in the hallway when all of this occurred,  
2 as you can well imagine.

3 And I didn't ask Judge Bonanno anything  
4 else about the incident. I certainly didn't think it  
5 was appropriate for me to do that.

6 I knew from past conversations that he  
7 certainly was not on good terms with Judge Holder, and  
8 that Judge Holder had antagonized his good friend  
9 Dennis Alvarez, who's the Chief Judge.

10 And I knew from some of the other judges  
11 that there was a morale problem up here generally  
12 speaking because of factions within the judiciary. And  
13 I've tried cases before almost all of them, or had  
14 hearings and other matters, and I have a lot of respect  
15 for their skills as judges. But, of course, this is  
16 such a wretched climate to work in it's almost an  
17 unpleasant place to come to practice, which is really a  
18 shame. But, nevertheless, that's true.

19 I -- Judge Holder has more than once  
20 encouraged me to apply for judgeships, and has  
21 contacted the Governor on my behalf. And I know -- and  
22 I stopped by his office not long after this, and I told  
23 him my name was up again. And he said, "Well, I'm  
24 going to immediately write to Jeb and tell him that  
25 there's several people on the list who I think highly

1 of and you're one of them."

2 And I told him, you know, "You understand  
3 that I was an unfortunate observer to the events that  
4 are currently making the headlines." And he said he  
5 knew that, you know.

6 And then I saw later the wonderful  
7 article in the St. Pete Times that said something like,  
8 "Lawyer to help judge," in which a lawyer by the name  
9 of Ralph Fernandez characterized my testimony as,  
10 "Foster will be good for us."

11 Q I thought that was interesting, too.

12 A I could have popped him, frankly. I've  
13 never talked to the guy. I do not know him well and  
14 never said anything more than just hello to him. He  
15 has no idea what my testimony is. And I think that was  
16 just very unprofessional on his part.

17 Q You know, obviously this is  
18 participatory. They're only going to know what they  
19 hear from folks. Have you had time to reflect and form  
20 an opinion, a personal opinion, just based on knowing  
21 the players and the people, as to why Judge Bonanno was  
22 in Judge Holder's office that evening?

23 A I have no idea. I think it was an  
24 incredibly dumb thing to do. I think if it was a -- if  
25 it was a matter of snooping or misguided -- a display

1 of bad judgment because of his friendship with Judge  
2 Alvarez, that's a possibility. I think it was a  
3 mistake for him to have done that under the present  
4 circumstances.

5 Q When you allude to that, is that tied in  
6 with at that point Judge Alvarez stating he wanted to  
7 be State Attorney?

8 A Yes.

9 Q And Judge Bonanno wanting to be Chief  
10 Judge, is that the scenario?

11 A Yes, it just -- it goes back to even  
12 before that. You know, there's never been a Chief  
13 Judge of this duration, this long term. This has  
14 always been a position, frankly, that a lot of judges  
15 didn't want but they accepted because of the  
16 administrative responsibilities.

17 They didn't think it was that good a job,  
18 but they accepted it because they were senior and felt  
19 that it was important for them to do. Judge Lenfesty,  
20 for instance, was that way. He was a wonderful guy and  
21 just took the responsibility even though he knew it  
22 wasn't a very nice job to have to do.

23 There have been other people who thought  
24 there ought to be term limits, I think is the term they  
25 sort of batted around, for the Chief Judge of the

1 circuit. Judge Holder has made no secret of his desire  
2 to move up into a position like that. Judge Moody  
3 raised it at one time.

4 It just became a difficult atmosphere, I  
5 think, for a lot of the judges. There were in's and  
6 outs. And it was just an absurd situation, frankly,  
7 and many judges here in Hillsborough County who were  
8 embarrassed by it; others who just accepted it as sort  
9 of the background for what was otherwise a good job.

10 You know, it's not a matter of competence  
11 in trying cases or handling their dockets or anything  
12 of that kind, it's a matter of personal power of  
13 politics to a large degree.

14 Q Do you think it's healthy to have a Chief  
15 Judge remain as much as six, eight, ten years?

16 A No, I don't. I think it should rotate  
17 from time to time. I just don't think it's a healthy  
18 situation at all.

19 Q I really want your opinion on this. Are  
20 we looking at a tempest in a teapot, or is there  
21 something here that a Grand Jury ought to know?

22 A Well, my own view is that in some  
23 respects it is a tempest in a teapot. It has aspects  
24 of it that go beyond that because of the effect it has,  
25 I think, on the overall atmosphere within the



1 courthouse.

2 I've known all of the judges for years  
3 and years and years, and I've been on friendly terms  
4 with all of them. And just to see this kind of a  
5 situation develop strikes me as a bad thing. I've  
6 known Judge Alvarez for years and years, too.

7 I think there is such a thing as, I hate  
8 to put this the way but it's probably true, too much  
9 power in the hands of one person. As much as I respect  
10 him, and I don't think he's abused the power, per se,  
11 but I think it is -- there is always the danger when  
12 there is too much power in the hands of one person that  
13 it will be abused.

14 And I know this came up when Judge  
15 Ward's -- the allegations against Judge Ward were  
16 initially made and there was a question of cover-up,  
17 and I had no idea whether it was true or false. I knew  
18 Judge Ward for years and years. But that was, I know,  
19 one of the first concerns, that the effort to avoid  
20 embarrassment in his tenure may have been a motive.

21 And I don't think that motive would have  
22 existed if it wasn't viewed so personally. And I think  
23 that anything we can do to help re-establish  
24 equilibrium in the judiciary is a real good thing.

25 Q Okay.

1           A           In fact, I even thought, gee, at one  
2 point maybe we ought to appoint a committee of the  
3 senior lawyers in this community to review the whole  
4 situation and make some recommendations. But I think  
5 this is a better avenue for it.

6           Q           We're going to ask you a few questions if  
7 that's all right.

8           A           All right.

9                       MR. HILL: I know there was a question  
10 back here.

11                      GRAND JUROR: Yes.

12                               EXAMINATION

13 BY GRAND JUROR:

14           Q           What I had, you entered the courthouse  
15 that particular day at approximately 4:55, five  
16 o'clock, in that --

17           A           Uh-huh.

18           Q           And would you know what time it was when  
19 you left the building --

20           A           I think --

21           Q           -- or you were done?

22           A           I think it was around 5:25 to 5:30.

23           Q           All right.

24           A           And give or take five or ten minutes  
25 either side of that to be --

1           Q       Right. So your observation then of Judge  
2 Bonanno in the area in the hallway would have been  
3 approximately the 5:15, 5:20?

4           A       Yes, sir.

5           Q       In that area?

6           A       Yes, sir.

7           Q       Okay.

8                   GRAND JUROR: Thank you very much.

9                   THE WITNESS: Okay.

10                  MR. HILL: Yes, sir.

11 BY GRAND JUROR:

12           Q       Have you ever been contacted by anyone in  
13 this building about giving a political campaign  
14 contribution?

15           A       Oh, I've probably been contacted by  
16 virtually everyone in this building about giving a  
17 campaign contribution. You know, I mean, many of these  
18 judges raise funds for the sake of basically driving  
19 away opposition. Oh, I'm sure I have.

20                   I could probably, if I had a list in  
21 front of me, I could probably run down that everybody  
22 from the Clerk of Court right up to, you know, most of  
23 the judges, yes. Now, I should -- by them, that's  
24 probably not accurate, by people who were raising funds  
25 for them. That would be a better way of putting it.

1           Q       Okay. Ever by a particular judge? And  
2 if so, have you ever made a contribution and delivered  
3 it to that particular judge?

4           A       The judges are not permitted to solicit  
5 funds themselves. No judge has ever solicited funds  
6 from me, nor would I ever deliver funds to a judge.

7                   FURTHER EXAMINATION

8 BY MR. HILL:

9           Q       What about a judge on behalf of another  
10 candidate, maybe a non-judicial candidate?

11          A       No, that's never -- that's never  
12 happened. If I've been contacted it's usually been by  
13 a lawyer on behalf of a judge who was a member of a  
14 committee set up to raise funds for that judge. And if  
15 it was another political person, it was again typically  
16 lawyers, lawyers who will be contacting me because  
17 they're on the committee of a certain candidate.

18          Q       How would you view a judge calling you  
19 somewhere between Monday and Friday between 8:00 to  
20 5:00, a judge that you practiced in front of, asking  
21 for a contribution for a non-judicial candidate?

22          A       I would think that it would be unethical  
23 and probably a violation of the Judicial Canons for a  
24 judge to do that. I don't think a judge can ever in --  
25 I don't think a judge can ever do that. I'll just put

1 that the way.

2 Now, maybe there are exceptions to the  
3 rule. But if there are, I think discretion would be  
4 the better part of valor there, that it should not be  
5 done. Let's just put that the way.

6 MR. HILL: Okay.

7 THE WITNESS: Yes, ma'am.

8 FURTHER EXAMINATION

9 BY GRAND JUROR:

10 Q If you give a contribution, is there a  
11 certain amount that you are able, I mean, that YOU'RE  
12 allowed to give?

13 A Yes. And my general plan has been to  
14 give as little as I could get away with giving. By the  
15 time you get hit by all the candidates, you might be  
16 talking about a campaign cycle of where you've given  
17 away a fair amount of money.

18 So, I mean, I don't want to insult them,  
19 but I certainly don't want to get anywhere near the  
20 limit, because you can't.

21 MR. HILL: Mr. Foster, though, as a  
22 person that has to run and raise money, it's  
23 that attitude that I sure despise.

24 THE WITNESS: Well, I have been there and  
25 done that, unfortunately unsuccessfully, so I

1 know the feeling.

2 BY GRAND JUROR (resuming):

3 Q So there is no given amount that --

4 A There is. There is. I just don't know  
5 what it is. It might be \$500, but absolutely do not  
6 quote me on that because I'm not sure. I just know  
7 that it's -- I don't think I have ever approached that  
8 limit.

9 Q You've never given that much?

10 A No, I'm too cheap. I work too hard for  
11 it.

12 BY GRAND JUROR:

13 Q Mike?

14 A Yes.

15 Q If I'm wrong, say so.

16 A Okay.

17 Q But right now no one has given me any  
18 evidence to say that statistics on a routine docket is  
19 important enough for a judge to deliver after hours to  
20 another judge's office. Now, am I underrating the  
21 value of this document?

22 A Well, I don't know what it was to be sure  
23 if I know the answer to that. I know the judges all  
24 keep track of their caseloads, and I'm sure there are  
25 administrative responsibilities that go along with that

1 where they have to report their caseloads, the number  
2 assigned to them, the number closed, that sort of  
3 thing. And I don't know how important they are. So  
4 I'm really not sure. I'm really not sure.

5 Q I would prejudge that a role for the  
6 administrative assistant to fill out the form and pass  
7 it on and make sure I get one.

8 A Uh-huh.

9 Q Okay, thank you.

10 A Yeah, I don't think it's something where  
11 if you don't have it to all the judges by five o'clock  
12 that afternoon that the world's going to come to an end  
13 at the courthouse, exactly.

14 GRAND JUROR: Okay.

15 MR. HILL: Any other questions? Mike, I  
16 want to thank you for being here.

17 THE WITNESS: Yes, sir.

18 MR. HILL: I would simply remind you, of  
19 course, that anything said here remains here. I  
20 would put you on notice it's at least possible  
21 as you leave here you will run into the Chief  
22 Judge. No reason to put you on notice, though,  
23 and you won't be surprised that way.

24 THE WITNESS: Okay.

25 MR. HILL: But we do thank you. Again,